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| 10/781,314      | 02/17/2004  | Youzhi E. Xu         | 42390P13563D        | 4855             |

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| EXAMINER |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Continuation of 3 and 11:** Applicant's statement of common ownership is not considered timely since it was not submitted prior to the final rejection (MPEP 716.01), it being noted that the relevant reference was initially used over 18 months ago without any statement until the reply filed May 9, 2008. In particular, the relevant portion of the MPEP states that "affidavits and declarations submitted under CFR 1.132 and other evidence traversing rejections are considered timely if submitted: (1) prior to final rejection...". In this instance, applicant's statement represents evidence that traverses a pending rejection and thus, the submission after the final rejection is not timely.

Justin Fischer

/Justin R Fischer/

Primary Examiner, Art Unit 1791